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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,788	02/17/2000	Richard E. Olson	PH-7076-A	7287

24348 7590 06/24/2002

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EXAMINER

COLEMAN, BRENDA LIBBY

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 06/24/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,788

Applicant(s)

OLSON

Examiner

Brenda Coleman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 10, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8, 10-14, 16, 18, 20, 22, 23, 25, and 26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 8, 11-14, 16, 18, 22, 25, and 26 is/are allowed.
- 6) ☒ Claim(s) 10, 20, and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claims 1-4, 6, 8, 10-14, 16, 18, 20, 22, 23, 25 and 26 are pending in the application.

This action is in response to applicants' amendment dated April 10, 2002. Claims 1-4, 6, 8, 10-14, 16, 18, 20 and 23 were amended and claims 25 and 26 are newly added.

Response to Arguments

Applicant's arguments filed April 10, 2002 have been fully considered with the following effect:

1. The applicant's amendments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled f) and aa) maintained in the last office action, which are hereby **withdrawn**.
2. The applicant's arguments are sufficient to overcome the provisional 35 U.S.C. § 101 rejection of the last office action, which is hereby **withdrawn**.
3. The applicant's amendments are sufficient to overcome the provisional obviousness-type double patenting rejection of the last office action, which is hereby **withdrawn**.
4. The applicant's amendments are sufficient to overcome the improper Markush group rejection of the last office action, which is hereby **withdrawn**.

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5. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled a), b), c) and d) in the last office action, which are hereby **withdrawn**.

In view of the amendment dated April 10, 2002, the following new grounds of rejection apply:

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10, 20 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:

- a) Claim 10 recites the limitation " $=O$ " in the definition of R^{11} . There is insufficient antecedent basis for this limitation in the claim.
- b) Claim 20 is vague and indefinite in that it is not known what is meant by the moiety 4-MeS-phenyl)CH₂- in the definition of Z on page 54, line 2. There is no open parenthesis in this moiety.
- c) Claim 20 recites the limitation " $=O$ " in the definition of R^{11} . There is insufficient antecedent basis for this limitation in the claim.

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- d) Claim 23 is vague and indefinite in that it is not known what is meant by Alzheimer's Disease **production**.

Allowable Subject Matter

7. Claims 1-4, 6, 8, 11-14, 16, 18, 22, 25 and 26 are allowed. None of the prior art of record nor a search in the pertinent art area teaches the compounds or compositions of the benzodiazepine compounds as claimed herein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Coleman whose telephone number is (703) 305-1880. The examiner can normally be reached on Mondays and Tuesdays from 9:00 AM to 3:00 PM and from 5:30 PM to 7:30 PM and on Wednesday thru Friday from 9:00 AM to 6:00 PM.

The fax phone number for this Group is (703) 308-4734 for "unofficial" purposes and the actual number for **OFFICIAL** business is **308-4556**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Brenda Coleman

Brenda Coleman
Primary Examiner AU 1624
June 19, 2002